

[Redacted] Conf

From: [Redacted]
Sent: 02 July 2012 17:19
To: [Redacted]
Subject: FW: CONF LIMDIS: UNAMA's forthcoming Afghan detentions mistreatment report

Security Label: CONFIDENTIAL

From: [Redacted]
Sent: 17 June 2012 05:27
To: [Redacted]

Subject: CONF LIMDIS: UNAMA's forthcoming Afghan detentions mistreatment report

- [Redacted]
1. On 12 June, Catherine Royle, Deputy Ambassador, and I met [Redacted] the acting Director of UNAMA's Human Rights Unit. UNAMA's previous report on Afghan detentions leaked to the media and we reassured [Redacted] that the following would be treated in the strictest confidence by HMG.

Overview

2. The report would conclude that torture was continuing to take place at NDS and ANP facilities across Afghanistan, whilst recognising that there had been some decline in the prevalence of the abuse at some facilities. UNAMA intended to use the report to seek to reinforce NDS Director General Nabil who UNAMA believe is a positive force. Command and control of the NDS would not be identified as an issue in the report although UNAMA believed Nabil did not have control over all the facilities under him, particularly in the south. By interviewing detainees about their experience at previous centres of detention, UNAMA were able to reach conclusions on some facilities despite not actually visiting them.
3. UNAMA had had initial discussions on the content of the report with the NDS. We understand from NDS D40 that the NDS Human Rights Unit has already been to some departments to investigate. UNAMA will not however share the detail of the allegations, instead reporting patterns. They said they could not even ask detainees if they wished their details to be shared with the Afghan authorities as the detainees would not share their concerns as freely. UNAMA continue to work on the report and are currently investigating disappearances in Kandahar. As a result, it is now more likely that the report will issue in July rather than June. [Redacted] said the relationship with ISAF was strong and they would share their conclusions on specific facilities with ISAF when they became available.

ISAF detainees

4. The proportion of ISAF detainees who had been abused was much lower than in the October report. Rodehaver was unsure of the exact figures but thought that 21 of the 83 detainees captured by ISAF forces that were included in the October report had alleged abuse compared to seven or eight of the 68 ISAF captured detainees interviewed as part of this report. Rodehaver was unclear whether any UK captured detainee had been interviewed.

Helmand

5. Facilities in Helmand would not specifically be cited in the report. UNAMA wanted to visit and report on the situation there in full but they had lost large numbers of staff recently including their entire Kandahar based staff. UNAMA had focused on and been able to visit the Helmand Juvenile Justice Centre although numbers were insufficient to draw conclusions. We explained the UK view that the situation at the Juvenile Justice Centre had dramatically improved following the removal of the former Director. Of the 10 detainees UNAMA interviewed in Helmand, seven were juveniles. Five alleged abuse in ANP custody (kicking, slapping and punching) although UNAMA did not visit ANP facilities, instead interviewing detainees at other centres. Two detainees alleged abuse in NDS custody. Although UNAMA had been unable to verify these abuses, the statements were similar enough in nature that UNAMA were inclined to think they were credible. Two of the Helmand detainees alleged abuse in ISAF custody – 1 US and in one case the detainee was unsure as to the detaining nation.

Kabul – D40 (Investigations) and D124 (Counter Terrorism)

6. D124 continued to represent a major problem with a large number of serious, recent allegations surfacing after ISAF had (conditionally) certified this facility. UNAMA were concerned that abuse was taking place outside the D124 detention facility and that detainees were removed from the facility before external organisations came to inspect. NDS continued to refuse to allow UNAMA to visit D124 saying they should accompany ISAF, the AIHRC or ICRC – none of which was acceptable to UNAMA.
7. D40 had recently become a problem but UNAMA were working on how to phrase their report on this facility. For the October report, Rodehaver thought around three of the 40 detainees they interviewed alleged abuse (comment: in August 2011, UNAMA told us the figure was 5 of 45). This time one third had experienced mistreatment, which was generally “intimidation or abuse” There was confusion amongst the detainees as to where the abuse had taken place and suggestions that underground locations or other buildings might be being used.

Kandahar

8. The systematic abuse taking place in Kandahar was of particular concern – of many times the magnitude of the problem elsewhere – centred on the Afghan National Police and the Afghan National Border Police. Individuals seemed to have disappeared, torture was taking place at unofficial locations, there was physical evidence of abuse having taken place, including the use of electric shocks with tazers. UNAMA had sometimes struggled to secure access. The collusion between Afghan authorities made the picture more confusing: NDS investigators were now based at Sarposa prison, which should only hold post conviction detainees. Rodehaver cited Asadullah Khalid, Raziq and Raziq's Deputy as being principle culprits in the mistreatment. Catherine Royle pushed UNAMA to name these individuals in the report to help the international community have traction in getting Raziq removed from office.

Recommendations

9. The biggest thing that the international community could do to help would be to push the establishment of an independent external oversight mechanism looking at security related detentions. This might be based on the National Preventative Monitoring Mechanism that existed elsewhere. AIHRC had no capacity to do this and its independence was compromised. The limitation in the criminal justice code of having to detect a crime in the first 72 hours of detention was also highly problematic and we agreed we should do what we could to get that period extended to avoid arbitrary detentions. UNAMA also hoped a definition of torture could be set down as part of the next review of the penal code. Catherine Royle noted that an Afghan definition may not be the same as ours. We agreed to provide UNAMA with a paragraph to include in their report on UK activity aimed at mitigating the risk of abuse in Afghan detention facilities.

Comment

10. UNAMA appear to be handling their conclusions well. We would agree that they are much more likely to achieve change by working with Nabil rather than against him. It is positive that NDS are already following up internally although their investigation will be complicated by the lack of detail of any allegation. The conclusions regarding D40 are particularly disappointing for the UK as they tally with the March 2012 AIHRC/OSF report. But our intensive monitoring proposal envisages repeated monitoring with little notice and the installation of CCTV covering the areas in which UK related detainees might be held. The Embassy believes these actions further mitigate the risk of abuse beneath current levels.